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FEDERAL COMMUNICATIONS COMMISSION
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December 7, 1998

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
The Portals
445 12th Street, S.W.
Washington, D.C. 20554

Re: Additional Informal Comments on the MobileMedia Corporation and Arch
Communications Group, Inc. Request for Transfer of Control; WT Docket
No. 97-115 and Report No. LB-99-05

Dear Ms. Salas:

Orbital Communications Corporation ("ORBCOMM"), pursuant to Sections 1.41 and 1.45(c) of the Commission's Rules, hereby submits additional informal comments on the proposed transfer of control of MobileMedia Corporation ("MobileMedia") to Arch Communications Group, Inc. ("Arch"), and then to a disbursed set of shareholders.^{1/} ORBCOMM had previously filed informal comments on the application, and MobileMedia and David Bayer objected to ORBCOMM's filing.^{2/} ORBCOMM continues to believe that

^{1/} Public Notice, DA 98-2080, released October 15, 1998. Although the Public Notice does not specifically contemplate additional reply comments, ORBCOMM believes the public interest would be advanced if the record was corrected as to seemingly misleading statements made in the Reply Comments of MobileMedia and David A. Bayer concerning the status of one of the issues designated for hearing. ORBCOMM thus requests that the Commission accept these additional informal comments under Section 1.45(c) of its Rules, 47 C.F.R. § 1.45(c).

^{2/} Letter from Raymond G. Bender, Jr. to Magalie Roman Salas, dated November 25, 1998; MobileMedia Reply Comments, November 27, 1998 at n. 18.

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the *Second Thursday* demonstration is deficient insofar as it ignores one of the issues specifically designated for hearing by the Commission -- the issue as to the preparation and accuracy of the outside counsel's report that Mr. Bayer verified.^{3/}

Both MobileMedia and David Bayer assert that the Commission resolved this issue in its decision on reconsideration of the order granting a stay of the hearing to allow possible *Second Thursday* relief.^{4/} MobileMedia and David Bayer overstate the Commission's holding in that decision, however. That *Order on Reconsideration* did not resolve any of the issues designated for hearing, nor did it declare David Bayer innocent with respect to the issue concerning the accuracy of the report of the outside counsel.^{5/} The *Order on Reconsideration* decision merely eliminated (except as to four individuals) the Paragraph 18 restriction in the *Stay Order* on grant of any FCC licenses to senior managers, officers and directors of MobileMedia.^{6/} The Commission indicated that under the modified *Grayson* policy, a hearing designation order will not generally bear on the operation of other facilities, thus it concluded on reconsideration that its original Paragraph 18 bar was too broad. As the Commission, observed, however, "Under this policy, we retain the discretion to take appropriate action at a later time if further proceedings warrant it."^{7/} The *Order on Reconsideration* did not narrow or modify in any other manner the *Hearing Designation Order*, but only narrowed the scope of Paragraph 18 of the *Stay Order*. Thus, it is misleading to suggest that the *Order on Reconsideration* found all but four MobileMedia employees, officers or Directors innocent, particularly with respect to the designated issue concerning the outside counsel's report.

David Bayer and MobileMedia also assert that subsequent licensing of applications of David Bayer indicate that the issue concerning his role in verification of the outside counsel's report has been resolved favorably. However, the *NetSat 28 Order* was a Bureau decision that erroneously relied on the reconsideration of the *Stay Order*, and the *Leo One Licensing*

^{3/} See *MobileMedia Corporation*, 12 FCC Rcd 14896 (1997) at ¶¶ 10 and 14(b).

^{4/} Bender Letter at pp. 1-2; MobileMedia Reply Comments at n. 18.

^{5/} MobileMedia also asserts that the company's counsel was never designated a "suspected wrongdoer," MobileMedia Reply Comments at n. 18. The Commission did indicate, however, that the designation of the issue concerning the accuracy of the report to the Commission included an examination of the role and the conduct of MobileMedia's outside counsel. *MobileMedia Corporation*, 12 FCC Rcd 5264 (1997) at ¶ 6.

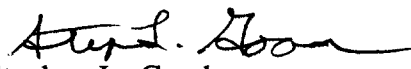
^{6/} *MobileMedia Corporation*, 12 FCC Rcd 11861, 11863-64 (1997).

^{7/} *Id.* at ¶ 7.

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Order was entirely silent on this issue.^{8/} If the Commission simply grants the MobileMedia application as requested, this serious issue concerning the accuracy and truthfulness of the outside counsel's report that was specifically designated for hearing would simply and quietly be swept under the rug.^{9/} For the foregoing reasons, ORBCOMM urges the Commission to reject the request to terminate the hearing with respect to this issue.

Sincerely,


Stephen L. Goodman
Counsel for ORBCOMM

cc: Raymond G. Bender
Gary P. Schonman
Robert L. Pettit
Kathryn A. Zachem
John H. Harwood

^{8/} Indeed, ORBCOMM has sought Commission review of that Bureau order (ORBCOMM Application for Review, filed March 16, 1998, at p. 22), *inter alia*, because the licensing decision failed to address this concern, notwithstanding the fact that Mr. Bayer himself had raised this issue by filing a petition to resolve the issue. *See* Petition of David A. Bayer, In Response to the June 5 Commission Order, for Expedited Resolution of MobileMedia Related Issues, dated July 1, 1997

^{9/} *See* MobileMedia Reply at n. 29: "Of course, potential enforcement matters that were the subject of the hearing designation order in this case will be obviated by grant of the Second Thursday petition."